

1 J. FRANK McCABE (SBN 48246)
2 Attorney at Law
3 500 Sansome Street, Suite 212
San Francisco, California 94111
Telephone: (415) 397-1757
Facsimile: (415) 433-7258

4
5 Attorney for Defendant
KENNETH EUGENE HOLLOWAY

6

7

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10 OAKLAND DIVISION

11 UNITED STATES OF AMERICA,) NO. CR-07-00344 CW
12 Plaintiff,)
13 v.)
14 KENNETH EUGENE HOLLOWAY,)
15 Defendant.)

16)
17 UNITED STATES OF AMERICA,) NO. CR-97-40059 CW
18 Plaintiff,)
19 v.)
20 KENNETH EUGENE HOLLOWAY,)
21 Defendant.)

22 THE PARTIES hereto stipulate that the matter, now
23 calendared for December 5, 2007, be continued to January 16, 2008,
24 at 2:00 p.m. Although the parties are engaged in settlement
25 discussions, a follow-up offer has not been conveyed to defendant in
26 sufficient time for it to be considered prior to December 5. In
27 addition, defendant has a pending state court felony case in Contra
28 Costa County which may affect the resolution of both the federal

STIPULATION AND [PROPOSED]
ORDER CONTINUING CASE AND
EXCLUDING TIME

1 case and supervised release violation. (The date of December 19,
2 2007 is not available because the defendant has a court appearance
3 in his Contra Costa County case on that date and cannot be
4 transported to federal court.)

5 The parties further stipulate that the time between
6 December 5, 2007, and the next appearance in the matter on
7 January 16, 2008, should be excluded under the Speedy Trial Act, 18
8 U.S.C. § 3161(h)(8), for effective preparation of counsel. The ends
9 of justice outweigh the interests of the public and the defendant in
10 a speedy trial in this case. This exclusion is necessary to allow
11 time for the parties to effectively prepare and to allow for
12 continuity of counsel taking into account the exercise of due
13 diligence.

14 IT IS SO STIPULATED.

15

16 DATED: December 4, 2007.

17 _____
18 /s/
BRYAN R. WHITTAKER
Special Assistant U.S. Attorney

19 DATED: December 4, 2007.

20 _____
/s/
J. FRANK McCABE
Attorney for Defendant Holloway

21 I hereby attest that I have on file all holograph
22 signatures for any signatures indicated by a conformed signature
23 (/s/) within this e-filed document.

24

25 _____
/s/ Bryan R. Whittaker
Special Assistant U.S. Attorney

26

27

28

STIPULATION AND [PROPOSED] ORDER CONTINUING CASE AND
EXCLUDING TIME

ORDER

2 For the foregoing reasons, the Court finds that good cause
3 is shown -- taking into account the public interest -- that an
4 exclusion of time between December 5, 2007, and January 16, 2008, is
5 warranted under the Speedy Trial Act because it will afford counsel
6 reasonable time necessary for effective preparation, taking into
7 account the exercise of due diligence. 18 U.S.C. §
8 3161(h)(8)(B)(iv). The Court finds that the ends of justice served
9 by excluding time under the Speedy Trial Act outweigh the best
10 interest of the public and the defendant in a speedy trial in the
11 prompt disposition of criminal cases. *Id.* at § 3161(h)(8)(A). The
12 Court, therefore, concludes that this exclusion of time is proper
13 pursuant to 18 U.S.C. § 3161(h)(8).

14 | DATED: December , 2007.

HON. CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE